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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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FRANCISCO A. LARA,

Petitioner,

v.

WARDEN BAKER, *et al.*,

Respondents.

Case No. 3:17-cv-00544-MMD-WGC

ORDER

In this habeas corpus action, the Court appointed counsel for the petitioner, Nevada prisoner Francisco A. Lara. See Order entered October 13, 2017 (ECF No. 5). Counsel — the Federal Public Defender for the District of Nevada — appeared for Lara on November 2, 2017 (ECF No. 9). The respondents have also appeared (ECF No. 8).

Therefore, the Court will set a schedule for further proceedings in this action, as follows.

**Amended Petition.** If necessary, petitioner will file and serve an amended petition for writ of habeas corpus within ninety (90) days after entry of this order. The amended petition must specifically state whether each ground for relief has been exhausted in state court; for each claim that has been exhausted in state court, the amended petition must state how, when, and where that occurred. If petitioner determines that an amended petition need not be filed, then, within ninety (90) days after entry of this order, petitioner must file and serve a notice to that effect.

1           **Response to Petition.** Respondents will have sixty (60) days following service of  
2 the amended petition to file and serve an answer or other response to the amended  
3 petition. If petitioner does not file an amended petition, respondents will have sixty (60)  
4 days following the due-date for the amended petition to file and serve an answer or other  
5 response to petitioner's petition.

6           **Reply.** Petitioner will have forty-five (45) days following service of an answer to file  
7 and serve a reply. Respondents will thereafter have thirty (30) days following service of a  
8 reply to file and serve a response to the reply.

9           **Briefing of Motion to Dismiss.** If respondents file a motion to dismiss, petitioner  
10 will have sixty (60) days following service of the motion to file and serve a response to the  
11 motion. Respondents will thereafter have thirty (30) days following service of the response  
12 to file and serve a reply.

13           **Discovery.** If petitioner wishes to move for leave to conduct discovery, petitioner  
14 must file and serve such motion concurrently with, but separate from, the response to  
15 respondents' motion to dismiss or the reply to respondents' answer. Any motion for leave  
16 to conduct discovery filed by petitioner before that time may be considered premature,  
17 and may be denied, without prejudice, on that basis. Respondents will file and serve a  
18 response to any such motion concurrently with, but separate from, their reply in support  
19 of their motion to dismiss or their response to petitioner's reply. Thereafter, petitioner will  
20 have twenty (20) days to file and serve a reply in support of the motion for leave to conduct  
21 discovery.

22           **Evidentiary Hearing.** If petitioner wishes to request an evidentiary hearing,  
23 petitioner must file and serve a motion for an evidentiary hearing concurrently with, but  
24 separate from, the response to respondents' motion to dismiss or the reply to  
25 respondents' answer. Any motion for an evidentiary hearing filed by petitioner before that  
26 time may be considered premature, and may be denied, without prejudice, on that basis.  
27 The motion for an evidentiary hearing must specifically address why an evidentiary  
28 hearing is required, and must meet the requirements of 28 U.S.C. § 2254(e). The motion

1 must state whether an evidentiary hearing was held in state court, and, if so, state where  
2 the transcript is located in the record. If petitioner files a motion for an evidentiary hearing,  
3 respondents will file and serve a response to that motion concurrently with, but separate  
4 from, their reply in support of their motion to dismiss or their response to petitioner's reply.  
5 Thereafter, petitioner will have twenty (20) days to file and serve a reply in support of the  
6 motion for an evidentiary hearing.

7 It is so ordered.

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9 DATED THIS 3<sup>rd</sup> day of November 2017.

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12 MIRANDA M. DU  
13 UNITED STATES DISTRICT JUDGE  
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